



WISCONSIN LEGISLATIVE COUNCIL

RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 01-042

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. In s. ATPCP 55.01 (1), should the term “meat distributor” be used instead of “food distributor,” since “meat distributor” is defined?

b. Section ATPCP 55.02 (5) defines “custom processing” as processing meat as a customer service for an individual who owns that meat and who uses all the resulting meat or food products for his or her own consumption. Is it the duty of the person performing the custom processing to determine that the person who owns the meat will use all the resulting meat or meat food products for his or her own consumption? How is the custom processor to make this determination? This comment applies to sub. (6) as well.

c. Section ATPCP 55.03 (5) provides that before the department may issue a license for a new meat establishment or issue a license to the new operator of an existing meat establishment, the department must inspect that meat establishment. Subsection (6) (b), however, states that “If” sub. (5) requires a pre-license inspection, the department shall grant or deny the license application within 30 days after the department performs that inspection. It is unclear why the word “If” is used, since it appears that an inspection is always required before a license may be issued.

d. In s. ATPCP 55.03 (11) (b), is it the responsibility of the meat establishment operator to determine that wild game has been harvested legally? If so, how are they to make this determination?

e. In s. ATCP 55.03 (12) (c) 2. and the note following, should “wild animals” be changed to “wild game,” since “wild game” is a defined term?

f. In s. ATCP 55.05 (1), “use” should be replaced with “comply with.”

g. In s. ATCP 55.05 (2) and (4), it is unclear how an animal is to be identified or marked. For example, is the animal to be tagged?

h. In s. ATCP 55.06 (5) (a), should a definition of “primal part” be provided?

i. Should s. ATCP 55.06 (5) (b) specify the minimum allowable size of official inspection mark?

j. Section ATCP 55.06 (5) (b) requires the official inspection mark to include the department inspection number. However, par. (c), relating to inspection of farm-raised deer, captive game animals and captive game birds does not require the department inspector number to be included in the official inspection mark. Is this discrepancy intentional?

k. The material contained in the note following s. ATCP 55.07 (11) (a) is substantive and should be included in the text of the rule.

l. The material contained in the first sentence of the note following s. ATCP 55.14 (1) is substantive and should be included in the text of the rule.

m. The material contained in the note following s. ATCP 55.14 (6) is substantive and should be included in the text of the rule.

n. In s. ATCP 55.15, all of the paragraphs should be numbered as subsections.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. ATCP 55.03 (11) (b) 3., can a cross-reference be added to the labeling and recordkeeping requirements which are applicable to the custom processing of food animals?

b. Would it be possible for the department to provide a listing of the captive game animals and captive game birds to which s. ATCP 55.04 (1) (a) does not apply?

c. Section ATCP 55.05 (6) authorizes the department to specify additional field ante mortem inspection procedures. How is the public to become notified of these additional procedures? Will the procedures be promulgated as a rule? This comment applies to the post-mortem inspection procedures referred to in s. ATCP 55.06 (4) as well.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Should a definition of “stun and bleed,” used in s. ATCP 55.04 (3) (c), be provided?

b. Must the department enter into an agreement to provide inspection services before it can charge for providing these services? This is implied, but not clearly stated, in s. ATCP 55.04 (5) (b). If an agreement is required, that requirement should be clearly established in the rule.

c. Would it be possible, in s. ATCP 55.06 (5) (d), to set forth standards to be used to determine when meat is “fit for human food only after cooking”?

d. Section ATCP 55.06 (5) (f) states that a carcass part that is tagged under that section is deemed to be covered by a department holding order under s. ATCP 55.14 (2). A holding order under that section prohibits a person from, among other things, moving any meat or meat food product which is subject to the order. However, s. ATCP 55.06 (5) (f) does not prohibit moving the meat which has been tagged. It appears that this prohibition should be added.

e. In s. ATCP 55.07 (7), to whom must a person submit the required written statement?

f. How is a person to know which denaturants have been approved by the department? [See s. ATCP 55.07 (10).]

g. In s. ATCP 55.07 (10) (c), should a definition of “dressed out” be provided?

h. Should s. ATCP 55.08 (2) (b) specify that a mark or label may not be used until the department has approved it?

i. Section ATCP 55.10 (5) should set forth the standards and procedure for department approval of product formulas.

j. Should s. ATCP 55.11 (1) specify the temperature at which meat must be kept during transport as well as at the time of delivery? Also, the degree symbol should be placed higher on the line.

k. Should a definition of “move,” used in s. ATCP 55.14 (2) (d), be provided?

l. Section ATCP 55.14 (3) is confusing because it refers to “disposal orders” in the text but is entitled “MEAT CONDEMNATION ORDER.” This discrepancy should be rectified.

m. Section ATCP 55.15 (1) (d) states that a request for reconsideration does not “automatically” stay a department action under the chapter. The rule could clarify the circumstances under which a request for reconsideration may stay department action.